

REMARKS

This Application has been carefully reviewed in light of the Official Action dated February 17, 2004. In order to advance prosecution of the present Application, Claim 14 has been amended. Applicant respectfully requests reconsideration and favorable action in this Application.

The Examiner has indicated that the volume of information submitted in the Information Disclosure Statement of November 28, 2001 would require an unreasonable amount of time for consideration. The Examiner has requested a brief description of the relevance of each cited document and to identify those documents that are of particular relevance to the present Application. Applicant respectfully submits that the documents cited therein provide technological background information and that no individual document is of particular relevance to the present Application.

The drawings stand objected under 37 C.F.R. §1.84(p)(5) for missing certain reference numerals and including certain reference numerals not mentioned in Applicant's specification. The specification has been amended to address certain drawing issues raised by the Examiner. Also, attached herewith are formal drawings that address other drawing issues raised by the Examiner. Therefore, Applicant respectfully submits that the drawings are in accordance with 37 C.F.R. §1.84(p)(5).

The Abstract of the Disclosure stands objected to under 37 C.F.R. §1.72(b) as being too long. The Abstract of the Disclosure has been amended to meet the 150 word length requirement of 37 C.F.R. §1.72(b). For the convenience of the Examiner, attached herewith is a replacement sheet with the new Abstract of the Disclosure.

The specification stands objected to for including abbreviations and acronyms not clearly identified. The

specification has been amended to spell out the abbreviations and acronyms identified by the Examiner.

Claims 1-20 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite. With respect Claims 1 and 14, the term "broadband loop emulation service signaling protocol" is shown and defined at page 5, lines 10-15, of Applicant's specification and is a well know term of art in the telecommunications industry. With respect to Claim 3, the phrase identified by the Examiner is clearly shown and defined at page 7, lines 12-26, of Applicant's specification. With respect to Claim 9, the phrase identified by the Examiner is clearly shown and defined at page 6, lines 15-32, of Applicant's specification. Therefore, Applicant respectfully submits that Claims 1-20 are in accordance with 35 U.S.C. §112, second paragraph.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Smyk. With respect to Independent Claim 1, there is recited ". . . a gateway operable to receive signaling information in a media gateway and call session control format, the gateway operable to convert the media gateway and call session control format to a broadband loop emulation service signaling protocol, the gateway operable to provide tone generation and detection capabilities pursuant to the signaling information." By contrast, the Smyk patent does not disclose a gateway that converts a media gateway and call session format to a broadband loop emulation service signaling protocol while also providing tone generation and detection as required by the claimed invention. The Smyk patent has no disclosure with respect to a broadband loop emulation service signaling protocol. The tone generation function disclosed in the Smyk patent is performed by a separate device unrelated to any signaling protocol conversion. Thus, the Smyk patent does

not have a gateway that is capable of performing both the protocol conversion and the tone generation/detection functions provided in the claimed invention. Additionally, Claim 9 requires a Class 5 softswitch. As pointed out by the Examiner, the Smyk patent clearly uses a Class 5 switch as opposed to the claimed Class 5 softswitch.

With respect to Independent Claim 14, there is recited a task of ". . . converting the media gateway and call session control format to a broadband loop emulation service signaling protocol; providing tone generation and detection in response to the signaling information and instructions received from the Class 5 softswitch." By contrast, the Smyk patent does not disclose a gateway that converts a media gateway and call session format to a broadband loop emulation service signaling protocol while also providing tone generation and detection as required by the claimed invention. The tone generation function disclosed in the Smyk patent is performed by a separate device unrelated to any signaling protocol conversion. Support for the above recitation can be found at page 7, lines 1-11, of Applicant's specification. Additionally, Claim 14 requires receiving signaling information and instructions from a Class 5 softswitch. The Smyk patent clearly uses a Class 5 switch as opposed to the claimed Class 5 softswitch.

Based on the reasoning above, the Smyk patent is insufficient by itself to support a rejection of the claims. Therefore, Applicant respectfully submits that Claims 1-20 are patentably distinct from the Smyk patent.

Applicant notes that the Examiner readily admits that the Smyk patent fails to disclose certain elements of the claims. Despite the admitted deficiencies of the Smyk patent, the Examiner supports the rejection of the claims by stating

either that the element would be obvious or takes Official Notice that the element is well known in the art. However, other than the Examiner's own subjective conclusions, there has been no evidence of record to support the rejections to the claims. Applicant respectfully requests the Examiner to provide objective evidence that supports the rejection of the claims by citing other references that specifically teach the claimed invention without the improper hindsight reconstruction employed by the Examiner.

CONCLUSION

Applicant has now made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests reconsideration and full allowance of Claims 1-20.

The Commissioner is hereby authorized to charge any amount required or credit any overpayment to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,  
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May 17, 2004

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